

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
CARMEN MORALES, :
 :
 Plaintiff, :
 : REPORT AND RECOMMENDATION
 :
 -v.- : 05 Civ. 7508 (LAP)(GWG)
 :
 RAMON MORALES AND MORALES :
 & SUAREZ, INC., :
 :
 Defendants. :
-----X

GABRIEL W. GORENSTEIN, United States Magistrate Judge.

The complaint in this matter was filed on August 25, 2005. As of November 29, 2005, no return of service had been filed with the Court as to either defendant. Accordingly, the Court issued an Order on November 30, 2005 informing plaintiff that she was required either to serve the summons and complaint on or before December 29, 2005, or to seek an extension of this deadline by showing good cause for her failure to effectuate service. This Order specifically informed the plaintiff that her case could be dismissed if she failed to comply with these directives.

Rule 4(m) of the Federal Rules of Civil Procedure provides:

If service of the summons and complaint is not made upon a defendant within 120 days after the filing of the complaint, the court, upon motion, or on its own initiative after notice to the plaintiff, shall dismiss the action without prejudice as to that defendant or direct that service be effected within a specified time; provided that if the plaintiff shows good cause for the failure, the court shall extend the time for service for an appropriate period.

The 120 days permitted under Rule 4(m) has now expired. To date, there has been no proof of service filed with respect to the defendants in this matter. Nor has there been an application for an extension of time for service under Rule 4(m) -- let alone an application showing good cause for such failure. Accordingly, this matter should be dismissed under Rule 4(m).

**PROCEDURE FOR FILING OBJECTIONS TO THIS
REPORT AND RECOMMENDATION**

Pursuant to 28 U.S.C. § 636(b)(1) and Rule 72(b) of the Federal Rules of Civil Procedure, the parties have ten (10) days from service of this Report to file any objections. See also Fed. R. Civ. P. 6(a), (e). Such objections (and any responses to objections) shall be filed with the Clerk of the Court, with copies sent to the Honorable Loretta A. Preska, 500 Pearl Street, New York, New York 10007. Any request for an extension of time to file objections must be directed to Judge Preska. If a party fails to file timely objections, that party will not be permitted to raise any objections to this Report and Recommendation on appeal. See Thomas v. Arn, 474 U.S. 140 (1985).

Dated: January 10, 2006
New York, New York

GABRIEL W. GORENSTEIN
United States Magistrate Judge

Copy to:

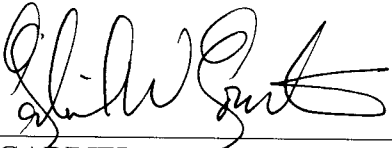
Carmen Morales
1882 Grand Concourse, # 9D
Bronx, NY 10457

Hon. Loretta A. Preska
United States District Judge

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United States District Judge